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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL
AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by the International Committee for
European Security and Cooperation, a non-governmental
organization in consultative status (category II)

The Secretary-General has received the following written statement which
is circulated in accordance with Economic and Social Council resolution 1296
(XLIV)

(1 March 1995)

Towards a Europe-linked referendum in former Yugoslavia

1. The Serbs, Croats and Slovenes laid the foundations for modern Yugoslavia
by suspending their overlapping territorial claims with the Pact of Corfu of
20 July 1917 which contains some still useful fundamentals:

"In accordance with the right of self-determination of peoples, no
part of this territorial totality may without infringement of justice be
detached and incorporated with some other State without the consent of
the nation itself.

In the interests of freedom and of the equal rights of all nations,
the Adriatic shall be free and open to each and all.

All citizens throughout the territory of the Kingdom shall be equal
and enjoy the same rights with regard to the State before the Law."

2. In the Treaty of St. Germain-en-Laye of 10 September 1919, which bears the signatures of the Principal Allied and Associated Powers, i.e. the United States of America, the British Empire, France, Italy and Japan, all inhabitants of the Serb-Croat-Slovene State were given treaty rights with regard to their life, liberty, profession, property and political assembly "without distinction of birth, nationality, language, race or religion". These treaty rights have taken precedence over any national "law, regulation or official action" (art. 1) and - reflecting the above principles of the Corfu Pact - they could not be modified without the assent of the majority of the Council of the League of Nations. Moreover, these so-called minority protection stipulations were declared to "constitute obligations of international concern and shall be placed under the guarantee of the League of Nations" (art. 11).

3. On 12 February 1946, the United Nations General Assembly adopted its resolution 24 (1), providing that

"The General Assembly will itself examine, or will submit to the appropriate organ of the United Nations, any request from the parties that the United Nations should assume the exercise of functions or powers entrusted to the league of Nations by treaties, international conventions, agreements and other instruments having a political character."

4. One or more States Members of the United Nations involved in the 1919 Treaty of St. Germain-en-Laye may thus take the corresponding initiatives, providing notably for the constituent peoples of former Yugoslavia to organize a referendum which may be held before 31 December 1996. In line with the above fundamental agreement of 1917, this could provide for each of them to freely exercise their right to either ratify or reject the dissolution of former Yugoslavia, and also to give each citizen of former Yugoslavia the opportunity to testify to his/her responsibilities as a European citizen.

5. In either case, the peoples and minorities of former Yugoslavia, with their active participation in this referendum, could demonstrate their determination to remain an integral part in particular of the European family of nations and, jointly, to become a full member of the European Union as soon as possible - under either a joint Yugoslavian or Balkan umbrella. They would thus vote neither for nor against, but remain open for an eventual peaceful partial or full reorganization of Yugoslavia within or outside the framework of a Balkan Union, or of another suitable frame for economic, political and cultural cooperation and links. No party should oppose corresponding efforts, and the Principal Allied and Associate Powers should avail their good offices to these effects. In the event, any dispute involving territory might be settled by binding arbitration, with the President of the Swiss Confederation invited to preside over the proceedings. The International Court of Justice could be called upon by any signatory to provide Advisory Opinions on questions of law or fact. Furthermore:

(a) Those peoples and minorities who would have voted to confirm the breakup of former Yugoslavia would be free to organize their institutions within the newly defined - or eventually renegotiated and redefined - internationally recognized borders, and within the constitutional frameworks

they agreed upon, eventually linked to such international minority protection and other guarantees as may be indicated, and with proper direct representation vis-à-vis the guaranteeing powers and international governmental organizations;

(b) Those peoples and minorities who would have rejected the dissolution of former Yugoslavia would be free to create their own independent federal or confederated State, with the name of Yugoslavia, whose international borders, in consultation with the Principal Allied and Associated Powers, should be negotiated and worked out among the involved internationally recognized States;

(c) This referendum should be carried out under the protection of the Principal Allied and Associated Powers with the assistance of the leadership of the Catholic, the Islamic and the Orthodox faiths, and under the supervision of the Council of Europe and the European Union.

6. The free exercise of each people's inalienable right to self-determination should be guaranteed jointly and individually by the Principal Allied and Associated Powers signatories of said 1919 Treaty. Upon signature of this or a similar referendum plan by all parties concerned, and regardless of the outcome of this referendum - i.e., the dissolution and eventual reorganization of former Yugoslavia into the political units which have been, or may yet be recognized by individual States, the European Union and/or the United Nations - the Guarantor Powers should undertake to promptly develop such instruments and negotiate with the States concerned such conditions which would give full, timely and individual meaningful bearing notably to convention rights and to the international minority protection guarantees provided for in said 1919 treaty. To these effects, the European Union and/or the United Nations should dispatch to the areas concerned human rights monitors who should be duly nominated by the beneficiaries of such international guarantees; as such these monitors should be recognized notably in all related forums of the United Nations, the European Union, the Council of Europe and similar organizations.

7. Upon signature of this or a similar plan by all parties concerned, and at least until the referendum would have been carried out, all contested territories in former Yugoslavia should be placed under the effective protection of a suitable international organization or alliance. Corresponding administrative agreements should be worked out forthwith between the latter and the local authorities and peoples. And all military units presently stationed in these contested territories should be placed under an agreed overall command: in cooperation with UNPROFOR, this shall be implemented by the forces in place which are to be directed by correspondingly appointed senior officers and which shall be responsible for disbanding and disarming the militia, de-mining, rebuilding the infrastructure, etc.
